

1  
2  
3  
4  
5 **UNITED STATES DISTRICT COURT**  
6 **DISTRICT OF NEVADA**

7  
8 WILLIAM R. "BILL" BAILEY, et al.,

2:11-CV-753 JCM (GMF)

9 Plaintiffs,

10 v.

11 PHOENIX INDUSTRIES, LLC, et al.,

12 Defendants.  
13  
14

15 **ORDER**

16 Presently before the court is plaintiffs Bill Bailey's and Billian I.P., Limited, a BVI Business  
17 Company's motion to remand to state court. (Doc. #9). The defendant Phoenix Industries, LLC, filed  
18 a notice of non-opposition to the motion to remand. (Doc. #12).

19 Defendant removed the instant action on the basis of diversity of citizenship pursuant to 28  
20 U.S.C. § 1332. However, in the motion to remand, plaintiff has provided factual and legal support  
21 for its argument that there is no diversity of citizenship between the parties. Specifically, the Nevada  
22 Secretary of State's website shows that Kelly Sockwell, the registered agent and manager of  
23 defendant Phoenix Industries, LLC, is a resident of Nevada. Ninth Circuit law thus holds that  
24 defendant Phoenix Industries, LLC, is a citizen of Nevada for diversity purposes. *See Johnson v.*  
25 *Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006) (a limited liability company will  
26 be treated as the citizen of every state of which its owners/members are citizens). Whereas plaintiff  
27 Bailey is also a Nevada citizen (doc. #1 at 3:9–10), there is no complete diversity between the  
28

1 parties, and removal is improper under 28 U.S.C. § 1332.

2 The court agrees; although defendant is an Arizona limited-liability company, defendant is  
3 also a “citizen” of Nevada for purposes of determining diversity jurisdiction. The defendant concedes  
4 this point in the notice non-opposition, and the defendant has presented no basis for the exercise of  
5 federal question jurisdiction to maintain the removal. Thus, the court finds it proper to remand to the  
6 state court.

7 Accordingly,

8 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiffs’ motion to  
9 remand (doc. #9) is GRANTED. The action shall be remanded to the state court for further  
10 proceedings.

11 DATED June 14, 2011.

12  
13   
14 **UNITED STATES DISTRICT JUDGE**